

Peter D. Morgenstern
MORGENSTERN & BLUE, LLC
885 Third Avenue
New York, New York 10022
(212) 750-6776

Attorneys for Philip Datlof

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----	X	
SECURITIES INVESTOR PROTECTION	:	
CORPORATION,	:	
	:	
Plaintiff,	:	Adv. Pro. No. 08-01789 (BRL)
	:	
v.	:	
	:	
BERNARD L. MADOFF INVESTMENT	:	
SECURITIES LLC,	:	
	:	
Defendant.	:	
-----	X	
In re	:	
	:	
BERNARD L. MADOFF,	:	
	:	
Debtor.	:	
-----	X	

OBJECTION TO NOTICE OF TRUSTEE'S DETERMINATION OF CLAIM

TO: THE HONORABLE BURTON R. LIFLAND,
UNITED STATES BANKRUPTCY JUDGE

Philip Datlof ("Dr. Datlof"), by and through his undersigned attorneys, hereby objects to the Notice of Trustee's Determination of Claim dated October 19, 2009¹ and respectfully states as follows:

¹ By agreement with the Trustee's counsel, Dr. Datlof's time to object to the Notice of Trustee's Determination of Claim was extended to August 27, 2010.

1. Dr. Datlof is a “customer,” as defined by the Securities Investor Protection Act (“SIPA”), of Bernard L. Madoff Investment Securities LLC (“BLMIS”).

2. To the best of Dr. Datlof’s recollection, he opened an Individual Retirement Account, which was account no. 1CM235 (the “Datlof IRA Account”), with BLMIS in 1993.

3. Dr. Datlof provided the Trustee with all of the records in his possession, pertaining to the Datlof IRA Account, with his timely filed customer claim, which was designated as Claim Number 006995 (the “Claim”).

4. The Trustee denied Dr. Datlof’s SIPC Claim as stated in the Notice of Trustee’s Determination of Claim dated October 19, 2009.

5. The Notice of Trustee’s Determination of Claim included a purported list of Dr. Datlof’s deposits and withdrawals (the “List of Deposits and Withdrawals”).

6. Upon Dr. Datlof’s request for “any records [the Trustee has] concerning Dr. Datlof’s account, excluding records that [Dr. Datlof has] submitted to [the Trustee],” the Trustee provided documents purporting to be the underlying account data used to compile the List of Deposits and Withdrawals.

7. Dr. Datlof has been unable to verify that the documents the Trustee provided are accurate. The documents provided by the Trustee consist almost entirely of withdrawal requests purportedly made through Fiserv and Retirement Accounts, Inc. Dr. Datlof denies knowledge or information sufficient to form a belief as to whether those documents are legitimate or accurate.

8. The Trustee has acknowledged that he has not been able to assure himself of the accuracy of the BLMIS financial records, and has admitted that “there are questions about the accuracy of the BLMIS financial records and the Trustee’s experts and staff has been unable to assure the Trustee of the complete accuracy of those records...[.]” *See* Statement from Irving H.

Picard, the Court-appointed trustee for the liquidation of Bernard L. Madoff Investment Securities LLC, February 5, 2009 Update, which is attached hereto as Exhibit A.

9. Dr. Datlof makes this objection to preserve his rights to contest the accuracy, reliability, and admissibility of the Trustee's purported records pertaining to the Datlof IRA Account.

10. Dr. Datlof reserves his rights to seek additional documents and information from the Trustee and third-parties, relevant to the substantiation of his Claim and the Trustee's denial of that Claim.

11. Dr. Datlof further reserves all rights to object to the Trustee's denial of his Claim on any other basis, including, but not limited to, the Trustee's reliance upon and application of the "net equity" rule.

WHEREFORE, Philip Datlof respectfully objects to the Notice of Trustee's Determination of Claim dated October 19, 2009.

Dated: August 26, 2010

MORGENSTERN & BLUE, LLC

By: /s/ Peter D. Morgenstern
Peter D. Morgenstern
885 Third Avenue
New York, New York 10022
(212) 750-6776

Attorneys for Philip Datlof

CERTIFICATE OF SERVICE

I hereby certify that the foregoing and accompanying Exhibit A was served on the following on this date by mail:

Clerk of the United States Bankruptcy Court
for the Southern District of New York
One Bowling Green
New York, New York 1004

-and-

Irving Picard, Trustee
c/o Baker & Hostetler, LLP
45 Rockefeller Plaza
New York, New York 10111

Dated: August 26, 2010

/s/ Peter D. Morgenstern
Peter D. Morgenstern